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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/817,456	04/02/2004	Geoffrey B. Rhoads	P0965	1643
23735 7590 01/05/2007 DIGIMARC CORPORATION 9405 SW GEMINI DRIVE BEAVERTON, OR 97008			EXAMINER LABAZE, EDWYN	
			ART UNIT 2876	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		01/05/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/817,456	<b>Applicant(s)</b> RHOADS, GEOFFREY B.	
	<b>Examiner</b> EDWYN LABAZE	<b>Art Unit</b> 2876	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 18 October 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 5, 11, 14, 18, 21 and 23-47 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14, 23, 34-36 and 41-43 is/are allowed.
- 6) ☒ Claim(s) 5, 11, 18, 21, 24, 26-33, 37-40 and 44-47 is/are rejected.
- 7) ☒ Claim(s) 25 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>10182006</u> | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. Receipt is acknowledged of amendments and IDS filed on 10/18/2006.
2. Claims 5, 11, 14, 18, 21, and 23-47 are presented for examination.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
  2. Ascertaining the differences between the prior art and the claims at issue.
  3. Resolving the level of ordinary skill in the pertinent art.
  4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
5. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Durst et al. (US 2001/0011276) in view of Wilska et al. (U.S. 6,427,078).

Re claims 5, 18, 21, 26-29, and 37-40: Durst Jr. et al. {hereinafter referred as "Durst"} discloses scanner enhanced remote control unit and system for automatically linking to on-line resources, which includes means of using a handheld appliance {herein interpreted as the remote control unit 10}, receiving machine-readable digital {herein bar code symbol 12 via the scanning system 16} data from the poster {herein interpreted as the printed intelligent document 14; see

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paragraphs 37-38; 43-48}, the data being in addition to the visible information {herein the printed document along document with text or graphics} (paragraphs 49-53, 67); by reference to the machine-readable received from the poster 14, establishing a link to a remote computer (paragraphs 49-50; 71-72; 118-119).

Durst et al. further teaches means of determining, at the remote database, a URL corresponding to the machine-readable data, and transmitting data identifying the URL to the appliance; and at the appliance, fetching information from the URL (paragraph 50-54; 62-63). Durst et al. also discloses that the machine-readable digital data is electromagnetically {herein using IR signal to read the data from the tag} received from the poster (paragraphs 44-47, 106-107).

Durst et al. fails to specifically teach that the appliance includes an output device, and the method includes presenting information to a user based on data obtained from said remote computer using said output device.

Wilska et al. teaches device for personal communications {herein a notebook computer}, data collection {herein a camera unit 14 comprising of camera 14a and scanner 14b} and data processing {through data processing unit 2}, and a circuit card, which includes appliance includes an output device {through the input/output controller 5 and display 9}, and the method includes presenting information to a user based on data obtained from the remote computer using the output device (col.2, lines 38-67; col.3, lines 6-67).

Wilska et al. further teaches a palmtop/notebook computer and a camera, snapping/taking an image from the poster (col.4, lines 50-64).

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In view of Wilska et al.'s teachings, it would have been obvious to an artisan of ordinary skilled in the art at the time the invention was made to employ into the teachings of Durst et al. an appliance includes an output device, and the method includes presenting information to a user based on data obtained from said remote computer using said output device so as to outputting through the display a transmitted message via cellular mobile phone after scanning a graphic/text or barcode and transmitted from processing.

6. Claims 11, 24, 30-33, and 44-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Durst et al. (US 2001/0011276) as modified by Wilska et al. (U.S. 6,427,078), and further in view of Tarbouriech (U.S. 6,674,993).

The teachings of Durst et al. as modified by Wilska et al. have been discussed above.

Durst et al. fails to teach that the electronic content comprises a song.

Tarbouriech discloses method and system for identifying data locations associated with real world observations, which includes electronic content {such as a barcode} comprising of a song (col.12, lines 13-59).

In view of Tarbouriech's teachings, it would have been obvious to an artisan of ordinary skilled in the art at the time the invention was made to employ into the teachings of Durst et al. as modified by Wilska et al. electronic content comprises a song so as to promote ticketed event for concert or movie, wherein a sample of a song could be downloaded upon scanning a barcode associated with the poster.

***Allowable Subject Matter***

7. Claim 25 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
8. Claims 14, 23, 34-36, 41-42 are allowed.
9. The following is a statement of reasons for the indication of allowable subject matter: the prior art of record, taken alone or in combination with any other references, fails to teach means of printing the machine-readable digital data that includes a plural-bit code steganographically encoded in artwork printed on the poster. These limitations in conjunction with other limitations in the claimed invention were not shown by the prior art of record.

***Response to Arguments***

10. Applicant's arguments with respect to claims 5, 11, 14, 18, 21, and 23-47 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Attia et al. (US 2005/0011957) teaches system and method for decoding and analyzing barcodes using a mobile device.

Kaplan et al. (US 2006/0258397) discloses integrated mobile application server and communication gateway.

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12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to EDWYN LABAZE whose telephone number is (571) 272-2395. The examiner can normally be reached on 7:30 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (571) 272-2398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

el

Edwyn Labaze  
Patent Examiner  
Art Unit 2876  
December 19, 2006



**THIEN M. LE  
PRIMARY EXAMINER**